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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

CUSTODIA BANK, INC.,
2120 Carey Avenue, Suite 300
Cheyenne, WY 82001

Plaintiff,

v.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Constitution Avenue NW & 20th St NW
Washington, DC 20551

FEDERAL RESERVE BANK
OF KANSAS CITY,
1 Memorial Drive
Kansas City, MO 64108

Defendants.

Civil Case No.: 1:22-CV-00125-SWS

**MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF
IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

Pursuant to D. Wyo. Local Rule 83.6(d) and Fed. R. App. P. 29, *amici curiae* Members of the United States Senate Committee on Banking, Housing and Urban Affairs (“Senate Banking Committee”) and United States House of Representatives Committee on Financial Services (“House Financial Services Committee”) respectfully request leave to file the attached *amici curiae* brief in opposition to Defendants’ motions to dismiss. It is likely that *amici* satisfy the requirements of Fed. R. App. P. 29(a)(2),¹ however, out of respect for this Court, and as a courtesy to the parties, *amici* are filing this motion for leave. Counsel conferred with the parties regarding the filing of the proposed brief and no objection was made.

The Members have a distinct constitutional interest in the faithful execution of the laws enacted by Congress and the exercise of Congressional oversight prerogatives. Additionally, the Members have a strong legislative interest in emerging issues in financial services, including digital assets and other payment innovations, which will necessitate legislation in the coming years. *Amici* understand this controversy to be of vital importance to the future of the United States’ financial system, because it will set a number of precedents relating to access to the payment system, digital asset regulation and the future ability of states to charter depository institutions under our dual banking system.

This brief presents compelling evidence of Congress’ intent regarding the interpretation of 12 U.S.C. § 248a and the Monetary Control Act of 1980, and depository institution access to master accounts. The brief also discusses important issues surrounding the dual banking system, and the Federal Reserve’s proper role within the statutory scheme enacted by Congress. These are critical issues that will be impacted by the Court’s decision in this matter and material to the future development of the U.S. financial system. Furthermore, the brief also emphasizes the need for

¹ This rule enables an “officer or agency” of the United States to file an amicus brief without leave of the court or the consent of the parties.

judicial interpretation of 12 U.S.C. § 4807, and the potential beneficial effect this will have on future applications made to banking regulators. Finally, the brief places the special purpose depository institution charter in the larger context of the U.S. financial system, and analyzes the beneficial policy goals of the charter.

Discussion of these issues will likely materially benefit this Court's resolution of the important issues in this case. *Amici* are aware that, unless permission is given by the Court, Fed. R. Civ. P. 29(a)(5) limits the brief of *amici* to one-half the length of the parties' brief for a dispositive motion, which D. Wyo. Local Rule 7.1(2)(b) sets at twenty-five pages. This would likely result in the brief of *amici* being limited to twelve and a half pages. As both Plaintiff's counsel and Defendants' counsel have noted in previous filings, the issues presented by this controversy raise significant constitutional, statutory and administrative issues of first impression which warrant detailed analysis.

For these reasons, *amici* respectfully request that the Court:

- (1) Grant leave to file the proposed brief submitted with this motion; and
- (2) Permit the length of the brief to extend to not more than twenty-five (25) pages.

A proposed order is also attached to this motion.

Submitted respectfully this 21st day of September, 2022,

/s/ Chris Land

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CERTIFICATE OF CONFERRAL

Pursuant to D. Wyo. Local Rule 7.1(b)(1)(A), counsel for *amici* conferred with counsel for both Plaintiff and Defendants. No party had an objection to the filing of the proposed brief.

Submitted respectfully this 21st day of September, 2022,

/s/ Chris Land

CERTIFICATE OF SERVICE

I hereby certify, on the 21st day of September, 2022, a true and correct copy of this motion was served on counsel, via the Court's electronic system, addressed to:

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